STATE OF MICHIGAN

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Neuromuscular Services
Petitioner **File No. 21-1481**

v

MemberSelect Insurance Company
Respondent

Issued and entered
this 25th day of January 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On September 17, 2021, Neuromuscular Services (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of MemberSelect Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment, products, services, or accommodations under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued the Petitioner bill denials on July 28 and 30, 2021, and August 9, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on October 25, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on November 9, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on November 29, 2021. The Department issued a notice of extension to both parties on January 4, 2022.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on December 28, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy treatments rendered on June 21, 23, 28, and 30, 2021, and July 2, 7, 9, 12, 14, 16, 19, 21, and 23, 2021 under procedure codes 97010, 97014, 97110, 97140 and 97012. The procedure codes are described as application of hot or cold packs, electrical stimulation (unattended), therapeutic procedure, manual therapy techniques, and mechanical traction, respectively. In its denial, the Respondent referenced Official Disability Guidelines (ODG) and noted that the treatments exceeded "the period of care for either utilization or relatedness."

With its appeal request, the Petitioner the provided medical documentation which identified the injured person's diagnoses as post-traumatic cephalgia, cervical strain with myofascitis, acute lumber spine strain with myofascitis, and lower left extremity radiculitis following a February 2021 motor vehicle accident. The Petitioner stated in its supporting documentation that the injured person's injuries require "ongoing conservative treatment … that is beyond the guidelines which are being coded." The Petitioner noted that the injured person was "making slow progress." The Petitioner further stated:

> [The injured person] does require ongoing conservative treatment with physical therapy as surely she is responding to the treatment. Therefore, it is my medical opinion that such treatments be approved so [the injured person] can fully recovered [sic] to her baseline.

In its reply, the Respondent reaffirmed its position and referenced the American College of Occupational and Environmental Medicine (ACOEM) in support. The Respondent stated that the ACOEM recommends 6-12 physical therapy visits for low back, cervical, and thoracic spine conditions. The Respondent further noted that the medical records provided did not support the request for additional physical therapy session beyond what is recommended by ACOEM. Specifically, the Respondent noted:

> The physical therapy sessions exceed the ACOEM quantity recommendations, as therapy was given for well over 8 weeks and greater than 20 sessions were provided, with ample opportunity to initiate and reinforce a home strengthening exercise program.

III. ANALYSIS

Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment and overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was not supported on the dates of service at issue and the treatment was overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is in active clinical practice and is board-certified in physical medicine and rehabilitation. In its report, the IRO reviewer referenced R 500.61(i), which defines "medically accepted standards" as the most appropriate practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, board, and associations. The IRO reviewer relied on MD Guidelines for low back disorders and cervical/thoracic spine disorders, and ODG by MCG for low back conditions and neck and upper back conditions for its recommendation.

The IRO reviewer noted that submitted documentation indicated that the injured person was in a motor vehicle accident on February 21, 2021 and was being treated with physical therapy. The IRO reviewer explained that based on the MD Guidelines "physical therapy is recommended for subacute or chronic cervical spine pain and/or more severely and/or debilitated injured persons for up to 4-6 appointments to initiate and begin to reinforce an exercise program." As for low back pain, the IRO reviewer explained that MD Guidelines indicate physical therapy "to restore range of motion and motor strength" for "up to six (6) initial appointments." The IRO reviewer further noted that the "Official Disability Guidelines indicate a maximum of nine (9) visits for cervicalgia" and "low back pain."

Based on the submitted documentation, the IRO reviewer opined:

> The records indicated the injured person made steady progress and had completed greater than 20 sessions of therapy. However, the documentation indicated the injured person was being treated with physical therapy. Additional therapy has been recommended however this exceeds the guideline recommendation is for 4 to 6 visits of therapy services for a severely debilitated patient in order to instruct them on how to complete a home exercise program. Therefore, according to the most appropriate practice guidelines, referenced above, the physical therapy exceeded guideline recommendations and is not considered appropriate. As such, the Physical medicine and rehabilitation therapeutic treatments with CPT Code(s)/Description: 97035, 97110, 97140, 97010, 97014, 97110, 97140 and 97012 for Dates of Service: June 21, 23, 28, and 30, 2021, and July 2, 7, 9, 12, 14, 16, 19, 21, and 23, 2021 were not medically necessary.

Based on the above, the IRO reviewer recommended that the Director uphold the Respondent's determination that the physical therapy treatments provided to the injured person on June 21, 23, 28, and 30, 2021, and July 2, 7, 9, 12, 14, 16, 19, 21, and 23, 2021 were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director upholds the Respondent's determinations dated July 28 and 30, 2021, and August 9, 2021.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X Sarah Wohlford

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford